

Hon. John H. Chun

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

Kurt **Benshoof**, A.R.W. by and
through his father Kurt Benshoof,
Brett **Fountain**, Urve **Maggitti**,
Plaintiffs,
v.
Andrea **Chin**, et al.
Defendants.

No. 2:24-CV-00808-JHC

**RESPONSE TO OPPOSITION TO
JUDICIAL NOTICE OF FACTS**

I, the undersigned, offer this Court my response to clarify and to rebut a spurious opposition to this Court's following of its rules which govern the judicial notice of specific facts which are not subject to reasonable dispute.

1. Leesa Manion, on behalf of defendants King County, Catherine Cornwall, Pascal Herzer, and Julie Salle ("Defendants") filed [Dkt #91] an opposition to Fountain's [Dkt #87] Judicial Notice.
2. Defendants made a number of repetitive vague conclusory assertions that the facts Fountain brought are not appropriate for judicial notice.
3. Defendants did not offer any law or rule that would tend to support Defendants' conclusory notions.
4. Defendants did not directly challenge any specific fact Fountain brought.
5. Defendants seem to be targeting only one fact: that Fountain is a plaintiff.
6. Defendants seem to have no issue with any other facts Fountain brought.
7. The facts Fountain offered for judicial notice need not be "generally known throughout" anywhere or by anyone in particular, as Manion carelessly infers; these facts are matters of the court's own record. Manion should speak with candor before this court, and recognize that the conjunction actually used in Rule 201(b) is "or", not "and".

8. It would appear that what Manion is truly attempting to do is an end-run for prematurely addressing the issue of whether or not Fountain *should continue to be* a plaintiff, prior to this Court having the opportunity to hold a proper hearing and rule on Cliber's and Russ' [Dkt #90] motion to have some plaintiffs *removed*. Manion is muddying the waters. That motion has yet to be heard. For now, per the record, Fountain *is* a plaintiff.
9. While Cliber and Russ may be unaware as to *why* it is proper for Fountain to continue being a plaintiff, that is a separate matter from this judicial notice. Fountain is confident that Cliber and Russ and Manion and everyone will readily comprehend, once that particular matter is heard, but Defendants' opposition to Fountain's judicial notice appears to hinge on Manion's improvident presumption to offer Cliber's and Russ' lack of awareness, as if someone had offered ultimate evidentiary facts which might be capable of bringing anything into dispute.
10. Notwithstanding Manion's seemingly-frantic repetition of frivolous conclusions about what is inappropriate, the facts noticed were from the official court record. As such, these facts are perfectly appropriate for judicial notice, being exactly identified by Fed. R. Evid. 201.
11. Manion cited case law which appears to caution against too lightly taking judicial notice; however, there is no danger of injustice here. Manion appears to merely be churning the case, as it is obvious that no defendant could benefit if the court were to begin violating the rules of evidence and treating the court's own record *as if* it were a source whose accuracy could reasonably be questioned.
12. The plain language of Rule 201(c)(2), (f) is mandatory - not discretionary.

CONCLUSION

Fountain requests that the court simply follow the Federal Rules of Evidence, take judicial notice of these facts from the court's own record, and recognize that while Cliber and Russ may wish to change Fountain's status as plaintiff, this in itself does not make the current facts improper for judicial notice.

Fountain also requests that this court admonish Defendants regarding Manion's irresponsible conflation of issues which waste everybody's time and this court's judicial resources, and regarding Manion's reliance on her own inferences and conclusions (or on Cliber's and Russ' emotions and lack of awareness) rather than on any evidentiary facts, which is what Defendants should have tried to bring.

This Court *must* promptly take judicial notice of the noticed facts, receiving them all into evidence, and then instruct the jury that the Court has taken judicial notice and instruct the jury to accept the noticed facts as conclusive.

EXECUTED on this 26th day of March 2025.

/s/ Brett Fountain

Plaintiff

CERTIFICATE OF SERVICE

I certify that on this 26th day of March 2025, a copy of this document is being sent by me as follows:

- Clerk, United States District Court, Washington Western District at Seattle, via fax (206) 553-0882
- Co-Plaintiff Urve Maggitti, via fax (610) 947-5116
- Co-Plaintiff Kurt Benshoof c/o KCCF, via fax (206) 296-0168
- Defendants c/o Leesa Manion, via fax (206) 296-0191

/s/ Brett Fountain

Sender

